



BILLING CODE: 3510-DS-P

## **DEPARTMENT OF COMMERCE**

### **International Trade Administration**

**[A-570-979, C-570-980]**

#### **Crystalline Silicon Photovoltaic Cells, Whether or Not Assembled into Modules, from the People's Republic of China: Preliminary Results of Changed Circumstances Reviews, and Intent to Revoke Antidumping and Countervailing Duty Orders in Part**

**AGENCY:** Enforcement and Compliance, International Trade Administration, Department of Commerce.

**SUMMARY:** On October 6, 2017, the Department of Commerce (Commerce) received a request for revocation, in part, of the antidumping duty (AD) and countervailing duty (CVD) orders on crystalline silicon photovoltaic cells, whether or not assembled into modules, from the People's Republic of China (China) with respect to certain solar panels. We preliminarily determine that the *Orders* shall be revoked, in part, with respect to certain solar panels of a sufficiently small size, voltage, amperage, and wattage, among other characteristics, as described below. Commerce invites interested parties to comment on these preliminary results.

**DATES:** Applicable [**INSERT DATE OF PUBLICATION IN THE *FEDERAL REGISTER***].

**FOR FURTHER INFORMATION CONTACT:** Lauren Caserta or Kaitlin Wojnar, AD/CVD Operations, Office VII, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230; telephone: (202) 482-4737 and (202) 482-3857, respectively.

## SUPPLEMENTARY INFORMATION:

### Background

On December 7, 2012, Commerce published AD and CVD orders on certain crystalline silicon photovoltaic cells, whether or not assembled into modules, from China.<sup>1</sup>

On October 6, 2017, Pitsco, Inc. d/b/a/ Pitsco Education (Pitsco), an importer of the subject merchandise, requested through a changed circumstances review revocation, in part, of the *Orders* pursuant to section 751(b)(1) of the Tariff Act of 1930, as amended (the Act) and 19 CFR 351.216(b), with respect to certain solar panels.<sup>2</sup> On October 13, 2017, SolarWorld Americas, Inc. (the petitioner) submitted a letter stating that it does not oppose the scope exclusion language proposed by Pitsco.<sup>3</sup> From October 25, 2017, through November 8, 2017,<sup>4</sup> Commerce consulted with both Pitsco and SolarWorld regarding revisions to the proposed exclusion language; specifically, Commerce suggested limiting the language to a description of the physical characteristics of the product and also expressed concerns regarding the dimensions indicated in the description.<sup>5</sup> Accordingly, on November 10, 2017, Pitsco submitted revised exclusion language based on these consultations.<sup>6</sup> On November 13, 2017, SolarWorld

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<sup>1</sup> *Crystalline Silicon Photovoltaic Cells, Whether or Not Assembled into Modules, from the People's Republic of China: Amended Final Determination of Sales at Less Than Fair Value, and Antidumping Duty Order*, 77 FR 73018 (December 7, 2012) and *Crystalline Silicon Photovoltaic Cells, Whether or Not Assembled into Modules, From the People's Republic of China: Countervailing Duty Order*, 77 FR 73017 (December 7, 2012) (collectively, *Orders*).

<sup>2</sup> Pitsco's Letter, "Request for Changed Circumstances Review (A-570-980; C-570-979)," dated October 6, 2017 (Pitsco's Request).

<sup>3</sup> SolarWorld's Letter, "Pitsco, Inc.'s Scope Exclusion Language – Letter of No Opposition," dated October 13, 2017 (Letter of No Opposition).

<sup>4</sup> Memorandum, "Ex Parte Communications with Adduci, Mastriani and Wiley Rein," dated November 13, 2017 (*Ex Parte Memo*).

<sup>5</sup> *Id.*

<sup>6</sup> Pitsco's Letter, "Amended Changed Circumstances Review (A-570-980; C-570-979)," dated November 10, 2017 (Pitsco's Amended Request).

submitted a letter stating that it does not oppose the revised exclusion language submitted by Pitsco on November 10, 2017.<sup>7</sup>

On November 27, 2017, Commerce published the notice of initiation of the requested changed circumstances reviews.<sup>8</sup> Because the statement submitted by the petitioner in support of Pitsco's amended request did not indicate whether the petitioner accounts for substantially all of the domestic production of crystalline silicon photovoltaic cells, in the *Initiation Notice*, we invited interested parties to submit comments concerning industry support for the potential revocation, in part, as well as comments and/or factual information regarding the changed circumstances reviews.<sup>9</sup> No comments or factual information was submitted by any party.

Scope of the Antidumping and Countervailing Duty Orders on Certain Crystalline Silicon Photovoltaic Cells, Whether or Not Assembled Into Modules, from the People's Republic of China

The merchandise covered by the orders is crystalline silicon photovoltaic cells, and modules, laminates, and panels, consisting of crystalline silicon photovoltaic cells, whether or not partially or fully assembled into other products, including, but not limited to, modules, laminates, panels and building integrated materials.

The orders cover crystalline silicon photovoltaic cells of thickness equal to or greater than 20 micrometers, having a p/n junction formed by any means, whether or not the cell has undergone other processing, including, but not limited to, cleaning, etching, coating, and/or addition of materials (including, but not limited to, metallization and conductor patterns) to collect and forward the electricity that is generated by the cell.

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<sup>7</sup> SolarWorld's Letter, "Pitsco, Inc.'s Scope Exclusion Language – Letter of No Opposition," dated November 13, 2017 (Revised Letter of No Opposition).

<sup>8</sup> *Crystalline Silicon Photovoltaic Cells, Whether or Not Assembled into Modules, from the People's Republic of China: Notice of Initiation of Changed Circumstances Reviews, and Consideration of Revocation of the Antidumping and Countervailing Duty Orders in Part*, 82 FR 55987 (Nov. 27, 2017) (Solar CCR Initiation Notice).

<sup>9</sup> *Id.*

Merchandise under consideration may be described at the time of importation as parts for final finished products that are assembled after importation, including, but not limited to, modules, laminates, panels, building-integrated modules, building-integrated panels, or other finished goods kits. Such parts that otherwise meet the definition of merchandise under consideration are included in the scope of the orders.

Excluded from the scope of the orders are thin film photovoltaic products produced from amorphous silicon (a-Si), cadmium telluride (CdTe), or copper indium gallium selenide (CIGS).

Also excluded from the scope of the orders are crystalline silicon photovoltaic cells, not exceeding 10,000 mm<sup>2</sup> in surface area, that are permanently integrated into a consumer good whose function is other than power generation and that consumes the electricity generated by the integrated crystalline silicon photovoltaic cell. Where more than one cell is permanently integrated into a consumer good, the surface area for purposes of this exclusion shall be the total combined surface area of all cells that are integrated into the consumer good.

Modules, laminates, and panels produced in a third-country from cells produced in China are covered by the orders; however, modules, laminates, and panels produced in China from cells produced in a third-country are not covered by the orders.

Merchandise covered by these orders is currently classified in the Harmonized Tariff System of the United States (HTSUS) under subheadings 8501.61.0000, 8507.20.80, 8541.40.6020, 8541.40.6030, and 8501.31.8000. These HTSUS subheadings are provided for convenience and customs purposes; the written description of the scope of the orders is dispositive.

### Scope of Changed Circumstances Reviews

Pitsco requests that Commerce revoke the *Orders*, in part, to exclude certain small solar panels, as described below. The revised unopposed language submitted by Pitsco is as follows:<sup>10</sup>

Excluded from the scope of these orders are panels with surface area from 3,450 mm<sup>2</sup> to 33,782 mm<sup>2</sup> with one black wire and one red wire (each of type 22 AWG or 24 AWG not more than 206 mm in length when measured from panel extrusion), and not exceeding 2.9 volts, 1.1 amps, and 3.19 watts. No panel shall contain an internal battery or external computer peripheral ports.

### Preliminary Results of Changed Circumstances Reviews, and Intent to Revoke the *Orders*, in Part

Pursuant to section 751(d)(1) of the Act, and 19 CFR 351.222(g), Commerce may revoke an AD or CVD order, in whole or in part, based on a review under section 751(b) of the Act (*i.e.*, a changed circumstances review). Section 751(b)(1) of the Act requires a changed circumstances review to be conducted upon receipt of a request which shows changed circumstances sufficient to warrant a review. Section 782(h)(2) of the Act gives Commerce the authority to revoke an order if producers accounting for substantially all of the production of the domestic like product have expressed a lack of interest in the order. Section 351.222(g) of Commerce's regulations provides that Commerce will conduct a changed circumstances review under 19 CFR 351.216, and may revoke an order (in whole or in part), if it concludes that: (i) producers accounting for substantially all of the production of the domestic like product to which

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<sup>10</sup> See Pitsco's Amended Request.

the order pertains have expressed a lack of interest in the relief provided by the order, in whole or in part; or (ii) if other changed circumstances sufficient to warrant revocation exist. Both the Act and Commerce's regulations require that "substantially all" domestic producers express a lack of interest in the order for Commerce to revoke the order, in whole or in part.<sup>11</sup> Commerce has interpreted "substantially all" to represent producers accounting for at least 85 percent of U.S. production of the domestic like product.<sup>12</sup>

Commerce's regulations do not specify a deadline for the issuance of the preliminary results of a changed circumstances review, but provide that Commerce will issue the final results of review within 270 days after the date on which the changed circumstances review is initiated.<sup>13</sup> Commerce did not issue a combined notice of initiation and preliminary results. As discussed above, the statement provided by the petitioner and offered in support of Pitsco's amended request did not indicate whether the petitioner accounts for substantially all domestic production of certain crystalline silicon photovoltaic cells.<sup>14</sup> Thus, Commerce did not determine in the *Initiation Notice* that producers accounting for substantially all of the production of the domestic like product lacked interest in the continued application of the *Orders* as to the certain solar panels under consideration here. Further, Commerce requested interested party comments on the issue of domestic industry support of a potential partial revocation of the *Orders*.<sup>15</sup> Commerce received no comments concerning a lack of industry support with respect to these changed circumstances reviews.

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<sup>11</sup> Section 782(h) of the Act and 19 CFR 351.222(g).

<sup>12</sup> *Honey from Argentina; Antidumping and Countervailing Duty Changed Circumstances Reviews; Preliminary Intent to Revoke Antidumping and Countervailing Duty Orders*, 77 FR 67790, 67791 (November 14, 2012), unchanged in *Honey from Argentina; Final Results of Antidumping and Countervailing Duty Changed Circumstances Reviews; Revocation of Antidumping and Countervailing Duty Orders*, 77 FR 77029 (December 31, 2012).

<sup>13</sup> 19 CFR 351.216(e).

<sup>14</sup> *Solar CCR Initiation Notice*.

<sup>15</sup> *Id.*

As noted in the *Initiation Notice*, Pitsco requested revocation of the *Orders*, in part, and supported its request. In light of Pitsco's amended request, the petitioner's agreement with the scope exclusion language proposed by Pitsco, and in the absence of any interested party comments received during the comment period, we preliminarily conclude that changed circumstances warrant revocation of the *Orders*, in part, because the producers accounting for substantially all of the production of the domestic like product to which the *Orders* pertain lack interest in the relief provided by the *Orders* with respect to certain small solar panels, as described above. We will consider comments from interested parties on these preliminary results of reviews before issuing the final results of these reviews.<sup>16</sup>

Accordingly, we are notifying the public of our intent to revoke the *Orders*, in part. We intend to carry out this revocation by including the following exclusion language in the scope of each of the *Orders*:

Excluded from the scope of these orders are panels with surface area from 3,450 mm<sup>2</sup> to 33,782 mm<sup>2</sup> with one black wire and one red wire (each of type 22 AWG or 24 AWG not more than 206 mm in length when measured from panel extrusion), and not exceeding 2.9 volts, 1.1 amps, and 3.19 watts. No panel shall contain an internal battery or external computer peripheral ports.

If we make a final determination to revoke the *Orders* in part, then Commerce will apply this determination to each order as follows. If, at the time of the final determinations, there have been no completed administrative reviews of an order, then the partial revocation will be applied

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<sup>16</sup> E.g., *Honey from Argentina; Antidumping and Countervailing Duty Changed Circumstances Reviews; Preliminary Intent to Revoke Antidumping and Countervailing Duty Orders*, 77 FR 67790, 67791 (November 14, 2012); *Aluminum Extrusions from the People's Republic of China: Preliminary Results of Changed Circumstances Reviews, and Intent to Revoke Antidumping and Countervailing Duty Orders in Part*, 78 FR 66895 (November 7, 2013); 19 CFR 351.222(g)(1)(v).

to unliquidated entries of merchandise subject to the changed circumstances review that were entered or withdrawn from warehouse, for consumption, on or after the date that corresponds to the date suspension of liquidation first began in the relevant proceeding. If, at the time of the final determinations, there have been completed administrative reviews of an order, then the partial revocation will be retroactively applied to unliquidated entries of merchandise subject to the changed circumstances reviews that were entered or withdrawn from warehouse, for consumption, on or after the day following the last day of the period covered by the most recently completed administrative review of the applicable order. The most recently completed administrative review of the AD order (A-570-979) was completed on June 20, 2017, and covered December 1, 2014 through November 30, 2015.<sup>17</sup> Therefore, under this scenario, the partial revocation for merchandise subject to the AD orders would be applied retroactively to unliquidated entries of merchandise entered or withdrawn from warehouse, for consumption, on or after December 1, 2015. The most recently completed administrative review of the CVD order (C-570-980) was completed on July 10, 2017, and covered January 1, 2014 through December 31, 2014.<sup>18</sup> Therefore, the partial revocation for merchandise subject to the CVD order would be applied retroactively to unliquidated entries of merchandise entered or withdrawn from warehouse, for consumption, on or after January 1, 2015, as applicable.

#### Public Comment

Interested parties are invited to comment on these preliminary results of reviews in accordance with 19 CFR 351.309(c)(1)(ii). Case briefs may be submitted no later than 14 days

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<sup>17</sup> *Crystalline Silicon Photovoltaic Cells, Whether or Not Assembled into Modules, from the People's Republic of China: Amended Final Results of Antidumping Duty Administrative Review; 2014-2015*, 82 FR 40560 (August 25, 2017).

<sup>18</sup> *Crystalline Silicon Photovoltaic Cells, Whether or Not Assembled into Modules, from the People's Republic of China: Final Results of countervailing Duty Administrative Review, and Partial Recession of countervailing Duty Administrative Review; 2014*, 82 FR 32678 (July 17, 2017).



after the date of publication of these preliminary results.<sup>19</sup> Rebuttals to case briefs, limited to issues raised in the case briefs, may be filed no later than 5 days after the due date for case briefs.<sup>20</sup> All submissions must be filed electronically using Enforcement and Compliance's AD and CVD Centralized Electronic Service System (ACCESS). ACCESS is available to registered users at <http://access.trade.gov> and in the Central Records Unit, room B8024 of the main Department of Commerce building. An electronically filed document must be received successfully in its entirety by ACCESS, by 5 p.m. Eastern Time on the due dates set forth in this notice.

Any interested party may request a hearing within 14 days of publication of this notice. Hearing requests should contain the following information: (1) the party's name, address, and telephone number; (2) the number of participants; and (3) a list of the issues to be discussed. Oral presentations at the hearing will be limited to issues raised in the briefs. If a request for a hearing is made, parties will be notified of the time and date for the hearing to be held at the U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230 in a room to be determined.<sup>21</sup>

Commerce intends to issue the final results of these changed circumstances reviews, which will include its analysis of any written comments received, no later than 270 days after the date on which these reviews were initiated.

If, in the final results of these reviews, Commerce continues to determine that changed circumstances warrant the revocation of the *Orders*, in part, we will instruct U.S. Customs and Border Protection (CBP) to liquidate without regard to AD or CVD duties all unliquidated

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<sup>19</sup> Commerce is altering the deadline for the submission of case briefs, as authorized by 19 CFR 351.309(c)(1)(ii).

<sup>20</sup> Commerce is altering the deadline for the submission of rebuttal briefs, as authorized by 19 CFR 351.309(d)(1).

<sup>21</sup> 19 CFR 351.310(d).

entries of the merchandise covered by the exclusion language above entered or withdrawn from warehouse, for consumption, on or after the effective dates indicated above. In addition, we will instruct CBP to refund any estimated AD or CVD cash deposits collected on such entries.

The current requirement for cash deposits of estimated AD and CVD duties on all entries of subject merchandise will continue unless they are modified pursuant to the final results of these changed circumstances reviews. If, in the final results of these reviews, Commerce continues to determine that changed circumstances warrant the revocation of the *Orders*, in part, we will instruct CBP to discontinue collecting cash deposits on entries of merchandise covered by the exclusion language above effective on the date of publication of the final results of these changed circumstances reviews.

These preliminary results of reviews and notice are in accordance with sections 751(b) and 777(i) of the Act and 19 CFR 351.221 and 19 CFR 351.222.

Dated: December 20, 2017.

**Gary Taverman,**

*Deputy Assistant Secretary*

*for Antidumping and Countervailing Duty Operations,*

*performing the non-exclusive functions and duties of the*

*Assistant Secretary for Enforcement and Compliance.*

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